



CONTRACTORS STATE LICENSE BOARD

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STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

The following letter from the Contractors State License Board is important for awarding bodies to note because it is a practice that results in lower quality work and an unfair business advantage that contributes to the underground economy

Avoid “Bid Shopping” for Public Works Projects

Whether you’re a contractor who regularly bids on public works projects or you are new to the process, it’s important to be familiar with the requirements related to proper subcontracting practices, and to give closer attention to the letter of the law.

The Subletting and Subcontracting Fair Practices Act (of California Public Contract Code (PCC) Sections 4100-4114) was created to combat the practice of “bid shopping.” Bid shopping often results in unfair competition among contractors, failure to pay prevailing wages to employees, and inferior workmanship. Bid shopping is illegal and is a violation of state law.

Bid shopping occurs when a prime contractor lists a subcontractor on a bid, but when it comes time to start the project, a different contractor executes the work. Subcontractors must be listed when the portion of the work they are going to perform is greater than one-half of one percent (.5) of the prime contractor’s total bid. If a contractor wants to change the listed subcontractor, the proper substitution process must be followed and approved by the awarding authority.

An example of bid shopping by a subcontractor is when a properly qualified subcontractor submits a bid to a prime contractor, but has no intention of actually performing the work. If the bid shopping contractor is, by chance, the low bid, the subcontractor may “call around” to other contractors to find out if another will perform the work at a lower price. In effect, the awarded subcontractor is selling the job to earn a commission. This tactic is used when specialty contractors informally refer to themselves as “brokers.”

Consequences of this illegal practice can result in squeezing the contractor that actually performs the work to cut corners, and the performing contractor may pay employees less than the prevailing wage or substitute inferior materials to make a profit.

The prime contractor is responsible for the first, second and third tier subcontractors working under their contract, and ignorance of the law is never a valid excuse. An illegal substitution occurs if the listed first tier subcontractor never performs any work, and instead a second or third tier subcontractor is employed on the job.

PCC Section 4100-4114 explains, in detail, the requirements of public works contracts for prime contractors, subcontractors and awarding bodies. Be sure you are familiar with these laws before bidding on a public works project.

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